IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

WP(C).No. 27029 of 2006(P)

PETITIONER:

ELIZABETH P.M.,
RETD. H.S.A., ST.JOSEPH'S HIGH SCHOOL, PERAVOOR,
P.O. THONDIYIL, KANNUR DISTRICT.

BY ADV. SRI.M.VIJAYAKUMAR

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY PRINCIPAL SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT,THIRUVANANTHAPURAM.

2. THE DEPUTY DIRECTOR OF EDUCATION, KANNUR

3. THE ASSISTANT EDUCATIONAL OFFICER,
THALASSERY.

4. UNDER SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT, THIRUVANANTHAPURAM.

BY GOVT. PLEADER SRI. T.T. MUHAMMED.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC. 27029/2006.

APPENDIX

PETITIONER'S EXTS:

EXT. P1 : PHOTOSTAT COPY OF STATEMENT OF FIXATION OF PAY IN THE REVISED SCALE SANCTIONED.

EXT. P2 : PHOTOCOPY OF REPORT ON THE ST. JOSEPH'S HIGH SCHOOL.

EXT. P3 : JUDGMENT IN O.P.13433/03 DT. 11.4.2003.

EXT. P4 : PHOTO COPY OF REPRESENTATION TO 1ST RESPONDENT DT. 16.9.03.

EXT. P5 : PHOTOCOPY OF COMMUNICATION NO.54792/A2/05/GL. EDN. DT. 17.1.06.

EXT. P6 : PHOTO COPY OF REPRESENTATION TO THE 1ST RESPONDENT DATED 1.2.06.

EXT. P7 : PHOTO COPY OF G.O. RT. NO.3653/06/GL. EDN. DATED 18.8.06.

K.M.JOSEPH, J.

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WP.(C) No. 27029 OF 2006

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Dated this the 14th day of March, 2007

JUDGMENT

By Ext.P3 judgment this court quashed the order passed on the audit objections raised in respect of the petitioner. It was directed that the benefits flowing from the judgment shall be released to the petitioner within three months. It was further directed that whether arrears of salary should be paid with effect from the date chosen by the petitioner or with effect from the date she actually exercised the option shall be decided by the Government within three months from the date of receipt of a copy of the judgment after affording an opportunity of hearing to the petitioner. Thereafter petitioner preferred Ext.P6 representation also. However, the Government by Ext.P7 proceeded to uphold the objection which was raised by the Deputy Director and the prayer of the petitioner was found to be not admissible as per rules.

2. Heard Government Pleader also.

3. It is patent that by Ext.P3 judgment the orders passed pursuant to the audit objection stood quashed. The only question which remains

to be answered is whether arrears of salary should be paid with effect from the date chosen by the petitioner or with effect from the date she actually exercised the option. It is not in dispute that that question has not been considered. In the light of Ext.P3, Ext.P7 cannot be sustained.

Accordingly Ext.P7 is unsustainable and it is quashed. However the question relating to the date from which arrears are to be paid remained unresolved. Therefore there will be a direction that the Government will consider the question and take a decision in accordance with law, with an opportunity of hearing to the petitioner, within a period of six weeks from the date of receipt of a copy of this judgment. Monetary benefits found due shall be paid to the petitioner without any delay.

The writ petition is disposed of as above.

(K.M. JOSEPH, JUDGE)

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K.M.JOSEPH, JJ.

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W.A. No. OF

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JUDGMENT

Dated this the day of February, 2006.